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In re Application of
OMASA, Ryushin
U.S. Application No.: 10/553,525
PCT No.: PCT/JP2004/005324
Int. Filing Date: 14 April 2004
Priority Date: 02 May 2003
Attorney Docket No.: 56283/DBP/F349
For: ACTIVE ANTISEPTIC WATER OR
ACTIVE ANTISEPTIC WATER
SYSTEM FLUID, AND METHOD AND
DEVICE FOR PRODUCTION THE
SAME

DECISION

This is a decision on the petition filed on 29 December 2006. No fee is required.

BACKGROUND

On 02 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and an English translation must be provided. Applicant was given two months to respond.

On 29 December 2006, applicant submitted the instant petition which was accompanied by, *inter alia*, a declaration by Daniel G. Ferris; a declaration by Vickie D. Wall; a copy of counsel's docket records from 30 September 2006 to 15 October 2006; an executed declaration; an English translation; and authorization to charge any required fee to Deposit Account No. 03-1728.

DISCUSSION

Applicant claims that the Form PCT/DO/EO/905 mailed 02 August 2006 was not received until 01 December 2006 and requests to reset the period to respond.

Section 710.06 of the Manual of Patent Examining Procedures (MPEP) states that the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

- (A) the petition is filed within two weeks of the date of receipt of the Office action at the correspondence address;
- (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
- (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record via facsimile on 01 December 2006. A copy of this Office action was included which is stamped as received [by the law firm] on 01 December 2006. However, the petition to reset the time period was not filed until 29 December 2006. This is past the two-week period outlined in the MPEP.

Therefore, item (A) is not satisfied.

It is noted that items (B) and (C) were completed.

CONCLUSION

For this reason, applicant's petition to reset the time period is **DISMISSED** without prejudice.

A three-month extension of time is required for the response to the Form PCT/DO/EO/905 mailed 02 August 2006. This fee has been charged to Deposit Account No. 03-1728 as authorized.

If reconsideration on the merits of this petition is desired, a renewed petition must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-

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1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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